

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

1. The petitioner is a single mother living with one child. During the relevant period, petitioner was a two-person Food Stamp household.
2. Petitioner became employed on or about May 9, 2008. She received Food Stamps at that time.
3. On or about August 8, 2008, petitioner signed an application (recertification) for Food Stamps. In that application, petitioner stated she was working.

4. The Department sent an Income Verification Form to petitioner's employer who completed the form on August 28, 2008. The information included bi-weekly wages starting May 23, 2008.

5. On or about September 25, 2008, the Department sent petitioner a Notice of Decision that she had been overpaid \$356.00 in Food Stamps for the period of August 1, 2008 through September 30, 2008 due to inadvertent household error.

6. Petitioner filed a request for fair hearing on November 24, 2008. A fair hearing was started on December 11, 2008.

7. The petitioner testified that she started work several weeks after receiving Food Stamps. She explained that she had an Employment Verification form from her caseworker. Petitioner had her employer sign the Employment Verification form approximately two weeks after starting her job. Petitioner stated she mailed the signed form to the Department. She testified that she left a message with her worker asking if benefits would change because of her wages.

8. T.C., an eligibility benefits specialist (caseworker), testified at the hearing. She testified that the Department did not have an Employment Verification form

in petitioner's file and that there were no notes or records in petitioner's file that petitioner had contacted the Department in May 2008 about her employment.

9. The petitioner indicated that she did not believe there was any information in her employee file about the Employment Verification form but that she would check with her employer and ask for written documentation that her employer signed the Employment Verification form in May 2008. The record was kept open to allow petitioner to obtain this information.

10. The Board received a letter from petitioner on December 17, 2008 that her employer would not submit a written letter and that there was no copy of an Employment Verification form in her employment file.

ORDER

The Department's decision is affirmed.

REASONS

The amount of Food Stamps a household receives is based upon a complex formula that is set out in Food Stamp Manual (FSM) § 273.9. A change in household income can trigger a change in the amount of Food Stamp benefits. To ensure that

Food Stamps are calculated correctly, households must inform the Department of a change in their income within ten days.

Under the Food Stamp regulations, the Department is required to "establish a claim against any household that has received more Food Stamp benefits than it is entitled to receive." F.S.M. § 273.18(a). This action includes recouping the overpayment whether the overpayment is due to agency error or inadvertent household error. F.S.M. § 273.18(a).

Whether an overpayment is due to agency error or inadvertent household error is important because there are differences (1) in how the overpayment is calculated such as not allowing the earned income deductions for inadvertent household error and (2) in determining whether and how a claim can be compromised.

Inadvertent household error includes "an overpayment resulting from a misunderstanding or unintended error on the part of the household" such as not reporting a change in circumstances. F.S.M. § 273.18(b)(2). Agency error includes an overpayment "caused by State agency action or failure to take action" such as failure to take appropriate action when a household reports a change. F.S.M. § 273.18(b)(2).

Petitioner argues that she had her employer sign the Employment Verification form during May 2008. Petitioner argues that she sent the information to the Department during May 2008 but the Department did not act upon this information. She claims agency error.

The evidence does not support petitioner's contention. There is no information in the Department's records to support petitioner's claim that the Department knew of her employment prior to the time petitioner completed Department paperwork in August 2008. There is no record in petitioner's employee file. Petitioner's employer is unwilling to supply documentation.

The record supports the Department's position that the overpayment is due to inadvertent household error. The Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4(D).

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